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EXAMINER

LEE, PHILIP C

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/821,537	Applicant(s) CUREY ET AL.	
	Examiner PHILIP C. LEE	Art Unit 2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/02/2008 has been entered.

2. Claims 1-49 are presented for examination.

Objection

3. Claims 2-7, 15-17, 23-24, 19-20, 44-45 and 48 are objected to because of the following informalities: claim 2 (line 3), "the software packages" should be "the plurality of software packages". Claims 5 (line 1), 7 (line 1), "one of the tests" should be "the one of the tests". Claim 15 (lines 3-4), "a failure log" should be "the failure log". Claims 19 (lines 1-2), 20 (lines 1-2), "each of the plurality of software packages" should be "the each of the plurality of software packages". Claims 23 (lines 1-2), 48 (lines 1-2), "one or more software packages" should be "the one or more software packages". Claim 24 (line 1), "each software package" should be "the each of the plurality of software packages". Claims 19-20, 44-45 (line 2), "enableable" is a typographical error. Appropriate correction is required.

Claim Rejections – 35 USC 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following terms lack proper antecedent basis:

- i. the address returned – claim 4.
- ii. the software package's initialization procedure – claim 4.
- iii. the address – claim 5.
- iv. the stack memory range – claims 6, 7.
- v. the heap memory range – claims 6, 7.
- vi. the stack package's initialization procedure – claim 6.
- vii. the various associated entry points – claims 6, 7.
- viii. the power utilized – claim 12.
- ix. the presence of the one or more software packages of the plurality of software packages to be executed – claim 22.

- b. Claim language in the following claims is not clearly understood:

- x. As per claims 1 (line 5), 4 (line 1), 6 (line 1), 8 (line 1), 12 (lines 1-2), 14 (lines 1-2), 15 (lines 1-2), 19 (lines 2 and 4), 24 (line 3), it is unclear if “one

software package", "a software package", "the software package" refers to "one of *the* plurality of software packages" in claim 1, line 1; As per claim 1, lines 9-10, it is uncertain if "the time intervals of its sequence of time intervals" refers to the sequence of time intervals assigned to the each of the plurality of software packages" in lines 4-5.

xi. As per claims 4 (lines 1 and 3), 6 (line 1), 8 (line 1), 10 (line 1), 19 (line 2), 24 (line 2), it is unclear what is "its" referring to.

xii. As per claim 11, line 1, it is unclear if "a background task" refers to "one of the background tasks" in claim 10, lines 1-2.

xiii. As per claims 13 (lines 1-2), 15 (line 4), 19 (line 5), it is uncertain if "the execution of a software package" refers to "the execution of one or more software packages of the plurality of software packages" in claim 1 or "the execution of a different software package".

xiv. As per claim 17 (line 1), it is unclear if "performance-quality parameters" refers to "the one or more performance-quality parameters" in claim 15, lines 2-3.

xv. As per claim 19, lines 3, it is unclear what software packages is "other software package" referring to.

xvi. As per claim 20, it has the same problems as claim 19.

xvii. As per claim 24, it is unclear "sequences of time intervals" refers to "the sequence of time intervals assigned to each of the plurality of software packages" in claim 1.

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xviii. As per claims 26-33, 35-40, 42, 44-45, 47, 49 have the same problems as claims 1-8, 10-15, 17, 19-20, 22, 29 respectively.

xix. As per claim 48, line 2, it is unclear if “sequences of time interval” refers to “the sequence of time intervals assigned to each of the plurality of software packages” in claim 26.

Claim Rejections – 35 USC 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 4-9, 19-20, 22-27, 29-34, 44-45 and 47-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Blum et al. (US 4,109,311), hereafter "Blum".

8. As to claim 1, Blum discloses the invention as claimed including a method for repetitively executing (col. 5, lines 35-42; and col. 6, lines 50-52) a plurality of software packages at one or more rates (the program requiring the greatest amount of processing time is allocated a greater number of time slices, col. 3, lines 47-54; fig. 3; col. 5, lines 24-42), utilizing a common set of computational resources (col. 3, lines 42-44), the method comprising:

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generating a sequence of time intervals to be assigned each of the plurality of software packages (col. 1, lines 11-23; col. 3, lines 47-54; and col. 6, lines 2-9), the sequence of time intervals assigned to one software package not overlapping the time intervals belonging to any other of the plurality of software packages (col. 3, lines 40-46); executing one or more software packages of the plurality of software packages (abstract, lines 2-6; col. 2, lines 15-25), each software package of the plurality of software packages being executed during the time intervals of its sequence of time intervals (abstract, lines 6-8; col. 1, lines 19-24; col. 6, lines 2-9; col. 7, lines 1-3).

9. As to claim 25, the claim is rejected for the same reasons as claim 1 above. In addition, Blum discloses an apparatus for practicing the method of claim 1 (Fig. 5).

10. As to claim 26, the claim is rejected for the same reasons as claim 1 above. In addition, Blum discloses an apparatus for repetitively executing (Fig. 5; and col. 5, lines 35-42; and col. 6, lines 50-52) a plurality of software packages at a plurality of rates (the program requiring the greatest amount of processing time is allocated a greater number of time slices, col. 3, lines 47-54; ; fig. 3; col. 5, lines 24-42), the apparatus comprising: a means for generating a sequence of time intervals to be assigned to each of the plurality of software packages (col. 1, lines 11-23; col. 3, lines 47-54; and col. 6, lines 2-9), the sequence of time intervals assigned to one software package not overlapping the sequence of time intervals assigned to any other of the plurality of software packages (col. 3, lines 40-46); a means for executing one or more software packages of the plurality of software packages (abstract, lines 2-6; col. 2, lines 15-25; and Fig. 5), each

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software package being executed, during the time intervals of its sequence of time intervals (abstract, lines 6-8; col. 1, lines 19-24; col. 6, lines 2-9; col. 7, lines 1-3).

11. As per claims 2 and 27, Blum further teach the plurality of software packages of the "executing" step includes only valid software packages, the method further comprising the step: utilizing one or more tests to identify the software packages that are valid (col. 4, lines 47-61).

12. As per claims 4 and 29, Blum further teach wherein a software package is assigned its own dedicated memory region, one of the tests for validity being whether the address returned for the software package's initialization procedure lies within its dedicated memory region (col. 4, lines 47-61).

13. As per claims 5 and 30, Blum further teach whether the address is returned within a predetermined time (col. 7, lines 1-10).

14. As per claims 6 and 31, Blum further teach wherein a software package is assigned its own dedicated memory region, the software package's dedicated memory region including a stack memory region and/or a heap memory region, one of the tests for validity being whether the stack memory range and/or the heap memory range assigned during the execution of the software package's initialization procedure and the various associated entry points lies within the software package's dedicated memory region (col. 4, lines 47-61).

15. As per claims 7 and 32, Blum further teach whether the stack memory range and/or the heap memory range and the various associated entry points are returned within a predetermined time (col. 7, lines 1-10).

16. As to claims 8 and 33, Blum discloses a software package is assigned its own dedicated memory region (fig. 3; col. 3, line 65 to col. 4, line 13; and col. 4, lines 50-54).

17. As per claims 9 and 34, Blum further teach the software package's dedicated memory region includes a stack memory region, a software package's stack residing in the software package's stack memory region (30, 33, fig. 2; col. 4, lines 14-46).

18. As per claims 19 and 44, Blum further teach each of the plurality of software packages is assigned its own memory block (30,33, fig. 2), a software package being enableable to read data only from zero or more memory blocks associated with other software packages, the zero or more memory blocks readable by a software package being either predetermined or determined during execution of the software packages in accordance with a set of one or more rules (col. 4, lines 14-46).

19. As per claims 20 and 45, Blum further teach each of the plurality of software packages is assigned its own memory block (30,33, fig. 2), a software package being enableable to write data only to zero or more memory blocks associated with other software

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packages, the zero or more memory blocks writeable by a software package being either predetermined or determined during execution of the software packages in accordance with a set of one or more rules (col. 4, lines 14-46).

20. As per claims 22 and 47, Blum further teach the presence of the one or more software packages of the plurality of software packages to be executed those software packages that is detected (col. 4, lines 34-61).

21. As to claims 23 and 48, Blum discloses one or more software packages is independently compiled, linked, and loaded (col. 3, line 65 to col. 4, line 13; and col. 4, lines 50-54) (i.e., programs are transfer to control storage (loading) and executed (col. 4, lines 4-33) (compiling). Blum et al further teach pointer linking a program to be executed (col. 4, lines 47-61) (linking)).

22. As per claims 24 and 49, Blum further teach each software package to which sequences of time intervals have been assigned has its own stack, the software package's stack being selected prior to executing the software package (30, 33, fig. 2; col. 4, lines 14-46).

Claim Rejections – 35 USC 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 3 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blum in view of Slivka et al, U.S. Patent 5,493,649 (hereinafter Slivka).

25. As per claims 3 and 28, Blum teaches the invention as claimed in claims 2 and 27 above. Blum does not teach one's complement checksum test. Slivka teaches one of the tests for validity is a one's complement checksum test of a software package's program memory data (col. 1, lines 56-67; col. 4, line 51-col. 5, line 2).

26. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum and Slivka because Slivka's teaching of one's complement checksum test would allow Blum's system to validate a program when multiple programs are executing within the memory.

27. Claims 10-11 and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blum in view of Douceur et al, U.S. Patent Application Publication 2005/0132375 (hereinafter Douceur).

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28. As per claims 10 and 35, Blum teaches the invention as claimed in claims 1 and 26 above. Blum does not teach background tasks as well as foreground tasks. Douceur teaches background tasks as well as foreground tasks, the background tasks being performed after the foreground tasks have been completed ([0005]).

29. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum and Douceur because Douceur's teaching of background tasks and foreground tasks would increase the efficiency of Blum's system by allowing a background process to be operated when no other priority process is using the processor.

30. As per claims 11 and 36, Blum and Douceur teach the invention substantially as claimed in claims 10 and 35 above. Douceur further teach a background task is an infinite loop ([0048]).

31. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum and Douceur for the same reason as claim 10 above.

32. Claims 13-17 and 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blum in view of Skagerling, U.S. Patent 5,621,663 (hereinafter Skagerling).

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33. As per claims 13 and 38, Blum teaches the invention as claimed in claims 1 and 26 above. Blum does not teach a failure log. Skagerling teaches a failure in the execution of a software package causes information to be logged in a failure log (col. 4, lines 54-57).

34. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum and Skagerling because Skagerling's teaching of failure log would increase the alertness of Blum's system by allowing logged failure to be reported and analyzed.

35. As per claims 14 and 39, Blum and Skagerling teach the invention substantially as claimed in claims 13 and 38 above. Skagerling further teach a failure in execution is linked to the software package that caused the failure (col. 2, line 51-col. 3, line 6).

36. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum and Skagerling for the same reason as claim 13 above.

37. As per claims 15 and 40, Blum and Skagerling teach the invention substantially as claimed in claims 13 and 38 above. Skagerling further teach wherein quality of performance in executing a software package is represented by one or more performance-quality parameters (col. 3, lines 57-63), values of the one or more performance-quality parameters being determined from the information logged in a failure log, the execution of a software package being subject to

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a plurality of execution options, an execution option being selected on the basis of one or more performance-quality parameter values (col. 5, line 64-col. 6, line 6).

38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum and Skagerling for the same reason as claim 13 above.

39. As per claims 16 and 41, Blum and Skagerling teach the invention substantially as claimed in claims 15 and 40 above. Skagerling further teach the plurality of execution options are user configurable (col. 4, lines 37-41).

40. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum and Skagerling for the same reason as claim 13 above.

41. As per claims 17 and 42, Blum and Skagerling teach the invention substantially as claimed in claims 15 and 40 above. Skagerling further teach wherein performance-quality parameters include the number of failures and/or the rate of failures for one or more classes of failures recorded in a software package's failure log (col. 5, line 57-col. 6, line 6).

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42. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum and Skagerling for the same reason as claim 13 above.

43. Claims 18 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blum in view of Herbert et al, U.S. Patent Application Publication 2006/0015719 (hereinafter Herbert).

44. As per claims 18 and 43, Blum teaches the invention as claimed in claims 1 and 26 above. Blum does not teach safety-critical software. Herbert teaches safety-critical software is placed in one or more separate partitions thereby isolating the safety-critical software from non-safety-critical software ([0021], [0025], [0041]).

45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum and Herbert because Herbert's teaching of safety-critical software would improve the reliability of execution in Blum's system by allowing system critical software to be executed in isolation in order avoid interface caused by other non-critical software failure.

46. Claims 21 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blum in view of Harris et al, U.S. Patent 6,438,704 (hereinafter Harris).

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47. As per claims 21 and 46, Blum teaches the invention as claimed in claims 1 and 26 above. Although Blum teaches an executive software package enforces the discipline that each of the one or more software packages of the plurality of software packages being executed software package executes only during the time intervals of its sequence of time intervals (col. 1, lines 17-60), however, Blum does not teach when the execution of a software package extends into a time interval assigned to another software package. Harris teaches the executive software package determining when the execution of any one of the one or more software packages of the plurality of software packages being executed a software package extends into a time interval belonging to the sequence of time intervals assigned to another of the one or more software packages of the plurality of software packages being executed software package and performs a remedial action (col. 25, lines 61-65).

48. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum and Harris because Harris's teaching of determining when the execution of any one of the one or more software packages of the plurality of software packages being executed a software package extends into a time interval belonging to the sequence of time intervals assigned to another of the one or more software packages would increase the flexibility of Blum's system by allowing adjustment of the assigned time intervals for execution by the programs.

49. Claims 12 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blum and Douceur in view of Flannery, U.S. Patent 5,826,092 (hereinafter Flannery).

50. As per claims 12 and 37, Blum and Douceur teach the invention substantially as claimed in claims 10 and 35 above. Blum and Douceur do not teach minimize the power utilized. Flannery teaches causing the power utilized in executing the software package to be minimized after completion of the background tasks (col. 3, lines 51-58).

51. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Blum, Douceur and Flannery because Flannery's teaching of minimize the power utilized would increase the efficiency of Blum's and Douceur's systems by allowing their system to conserve more power.

52. Applicant's arguments filed 12/2/2008 have been fully considered but they are not persuasive.

53. In the remarks, applicant argued that:

(1) Blum fails to teach assignment of different sequences of time intervals to software packages.

54. In response to point (1), on page 13 of the remarks filed on 12/2/2008, applicant states: "As the BPAI states, the feature that distinguishes applicant's invention from Blum is the assignment of different sequences of time intervals to software packages rather than different time intervals. Thus, amended claims 1, 25 and 26 are not anticipated by Blum." Examiner disagrees. Blum teaches the assignment of different time slices (i.e., sequences of time intervals)

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to programs (col. 3, lines 47-54; col. 6, lines 50-52). The times slices belonging to one program do not overlap with the time slices belonging to any other programs (col. 3, lines 40-46).

CONCLUSION

55. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Lee whose telephone number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571) 272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Philip C Lee/

Primary Examiner, Art Unit 2452